

**TWENTY-NINTH DAY - FEBRUARY 20, 2004****LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE  
SECOND SESSION****TWENTY-NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, February 20, 2004

**PRAYER**

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Brashear, Brown, Maxwell, Mines, and Raikes who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-eighth day was approved.

**ANNOUNCEMENTS**

The Transportation and Telecommunications Committee designates LB 863 and LB 878 as its priority bills.

Senator Hartnett designates LB 1231 as his priority bill.

The Urban Affairs Committee designates LB 1233 and LB 499 as its priority bills.

Senator Bourne designates LB 203 as his priority bill.

**REPORT OF REGISTERED LOBBYISTS**

Following is a list of all lobbyists who have registered as of February 19, 2004, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

Dierks, Merton L.  
Farmers Union, Nebraska  
Save Boyd County

Ferdinand, L. Rene'  
ARC of Nebraska (Withdrawn 02/17/2004)  
Health Care Association, Nebraska

Marcus, Joan K.  
ARC of Nebraska (Withdrawn 02/17/2004)

Moors, H. Jack  
Novartis Pharmaceuticals Corporation

Newell, David R.  
City of Elkhorn

## REPORTS

The following reports were received by the Legislature:

**Economic Development, Department of**  
Microenterprise Development Act (LB 327) Report  
**Energy Office**  
Annual Report for FY 2002-2003

**Investment Finance Authority**  
2004 Series A & B Single Family Housing Revenue Bonds  
2004 Series G.O.-16 General Obligation Bonds

## NOTICE OF COMMITTEE HEARING Government, Military and Veterans Affairs Room 1507

Friday, March 5, 2004

8:15 a.m.

Andre R. Barry - Accountability and Disclosure Commission  
Marilee A. Fredrickson - Accountability and Disclosure Commission  
Gary Rosacker - Accountability and Disclosure Commission  
Christine Bleich - State Emergency Response Commission  
Richard Christensen - State Emergency Response Commission  
Steven Wood - State Emergency Response Commission

(Signed) DiAnna R. Schimek, Chairperson

## SELECT FILE

**LEGISLATIVE RESOLUTION 14CA.** Senator Smith renewed his pending amendment, AM2599, found on page 659 and considered on page 680.

Senator Janssen moved the previous question. The question is, "Shall the debate now close?"

Senator Janssen moved for a call of the house. The motion prevailed with 20 ayes, 0 nays, and 29 not voting.

Senator Janssen requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 37:

Aguilar	Conneally	Janssen	Mines	Stuthman
Baker	Cunningham	Johnson	Mossey	Synowiecki
Beutler	Engel	Kremer	Pederson, D.	Thompson
Bourne	Erdman	Kruse	Preister	Tyson
Bromm	Foley	Landis	Raikes	Wehrbein
Burling	Friend	Louden	Redfield	
Byars	Hartnett	Maxwell	Schrock	
Combs	Hudkins	McDonald	Stuhr	

Voting in the negative, 1:

Chambers

Present and not voting, 10:

Brashear	Jensen	Pedersen, Dw.	Quandahl	Smith
Cudaback	Jones	Price	Schimek	Vrtiska

Excused and not voting, 1:

Brown

The motion to cease debate prevailed with 37 ayes, 1 nay, 10 present and not voting, and 1 excused and not voting.

The Smith amendment lost with 18 ayes, 20 nays, 10 present and not voting, and 1 excused and not voting.

The Chair declared the call raised.

Pending.

## ANNOUNCEMENTS

The Government, Military and Veterans Affairs Committee designates LB 784 as its priority bill.

Senator Landis designates LB 1019 as his priority bill.

The General Affairs Committee designates LB 485 and LB 1201 as its priority bills.

The Judiciary Committee designates LB 876 and LB 1207 as its priority bills.

## STANDING COMMITTEE REPORT

### Transportation and Telecommunications

**LEGISLATIVE BILL 859.** Placed on General File as amended.

Standing Committee amendment to LB 859:

AM2730

- 1 1. Strike original section 1 and insert the following
- 2 new sections:
- 3 "Section 1. (1) The Department of Motor Vehicles shall
- 4 design license plates to be known as Shriners Plates. The plates
- 5 shall include an inscription which includes a facsimile of the
- 6 Shriner emblems and across the bottom of the design the words
- 7 Shriners Help Children. The design shall be selected on the basis
- 8 of (a) enhancing the marketability of the plates and (b) limiting
- 9 the manufacturing cost of each plate to an amount less than or
- 10 equal to the amount charged for license plates pursuant to
- 11 subsection (5) of section 60-311. The department shall make
- 12 applications available for each type of plate when it is designed.
- 13 The department may adopt and promulgate rules and regulations to
- 14 carry out this section and section 2 of this act.
- 15 (2) One type of Shriners Plates shall be consecutively
- 16 numbered plates. The department shall:
- 17 (a) Number the plates consecutively beginning with the
- 18 number one, using numerals the size of which maximizes legibility
- 19 and limiting the numerals to five characters or less; and
- 20 (b) Not use a county designation or any characters other
- 21 than numbers on the plates.
- 22 (3) One type of Shriners Plates shall be personalized
- 23 message plates. Such plates shall be issued subject to the same
- 24 conditions specified for message plates in subsection (2) of
- 1 section 60-311.11, except that a maximum of five characters may be
- 2 used.
- 3 Sec. 2. (1) A person may apply to the Department of
- 4 Motor Vehicles for Shriners Plates in lieu of regular license
- 5 plates on an application prescribed and provided by the department
- 6 for any passenger vehicle, farm truck, self-propelled mobile home,
- 7 cabin trailer, or commercial truck registered for ten tons gross
- 8 weight or less pursuant to section 60-302. An applicant receiving
- 9 a Shriners Plate for a farm truck with a gross weight of over
- 10 sixteen tons or for a commercial truck or truck-tractor registered
- 11 for a gross weight of five tons or over shall affix the appropriate
- 12 tonnage sticker to the plate. The department shall make forms

13 available for such applications through the county treasurers or  
 14 designated county officials as provided in section 60-302.

15 (2)(a) Each application for initial issuance of  
 16 consecutively numbered Shriners Plates shall be accompanied by a  
 17 fee of fifteen dollars. An application for renewal of such plates  
 18 shall be accompanied by a fee of fifteen dollars. County  
 19 treasurers or designated county officials collecting fees for  
 20 renewals pursuant to this subdivision shall remit them to the State  
 21 Treasurer. The State Treasurer shall credit two-thirds of the fees  
 22 for initial issuance and renewal of such plates to the Shriners  
 23 Travel and Lodging Assistance Fund and one-third of such fees to  
 24 the Department of Motor Vehicles Cash Fund.

25 (b) Each application for initial issuance of personalized  
 26 message Shriners Plates shall be accompanied by a fee of forty  
 27 dollars. An application for renewal of such plates shall be  
 1 accompanied by a fee of forty dollars. County treasurers or  
 2 designated county officials collecting fees for renewals pursuant  
 3 to this subdivision shall remit them to the State Treasurer. The  
 4 State Treasurer shall credit twenty-five percent of the fees for  
 5 initial issuance and renewal of such plates to the Shriners Travel  
 6 and Lodging Assistance Fund and seventy-five percent of such fees  
 7 to the Department of Motor Vehicles Cash Fund.

8 (3) When the department receives an application for  
 9 Shriners Plates which are authorized to be manufactured pursuant to  
 10 section 1 of this act, the department shall deliver the plates to  
 11 the county treasurer or designated county official of the county in  
 12 which the vehicle is registered. The county treasurer or  
 13 designated county official shall issue Shriners Plates in lieu of  
 14 regular license plates when the applicant complies with the other  
 15 provisions of law for registration of the vehicle. If Shriners  
 16 Plates are lost, stolen, or mutilated, the licensee shall be issued  
 17 replacement plates pursuant to section 60-324.

18 (4)(a) The owner of a vehicle bearing Shriners Plates may  
 19 make application to the county treasurer or designated county  
 20 official as provided in section 60-302 to have such plates  
 21 transferred to a motor vehicle other than the vehicle for which  
 22 such plates were originally purchased if such vehicle is owned by  
 23 the owner of the plates.

24 (b) The owner may have the unused portion of the fee for  
 25 the Shriners Plates credited to the other vehicle which will bear  
 26 the plates at the rate of eight and one-third percent per month for  
 27 each full month left in the registration period.

1 (c) Application for such transfer shall be accompanied by  
 2 a fee of three dollars. Fees collected pursuant to this subsection  
 3 shall be remitted to the State Treasurer for credit to the  
 4 Department of Motor Vehicles Cash Fund.

5 (5) If the cost of manufacturing Shriners Plates at any  
 6 time exceeds the amount charged for license plates pursuant to  
 7 subsection (5) of section 60-311, any money to be credited to the

8 Department of Motor Vehicles Cash Fund shall instead be credited  
9 first to the Highway Trust Fund in an amount equal to the  
10 difference between the manufacturing costs of Shriners Plates and  
11 the amount charged pursuant to subsection (5) of section 60-311  
12 with respect to such plates and the remainder shall be credited to  
13 the Department of Motor Vehicles Cash Fund.

14 Sec. 3. Section 60-310, Revised Statutes Supplement,  
15 2003, is amended to read:

16 60-310. (1) Registration may be renewed annually in the  
17 same manner and upon payment of the same fee as provided for the  
18 original registration. On making an application for renewal, the  
19 registration certificate for the preceding registration period  
20 shall be presented with the application.

21 (2) The certificate of registration and license plates  
22 furnished by the department shall be valid during the registration  
23 period for which they are issued, and when renewal tabs furnished  
24 pursuant to section 60-311 have been affixed to the license plates,  
25 the plates shall also be valid for the registration period  
26 designated by such renewal tabs.

27 (3) The registration period for motor vehicles, trailers,  
1 semitrailers, and cabin trailers required to be registered as  
2 provided in section 60-302 shall expire on the first day of the  
3 month one year from the month of issuance, and renewal shall become  
4 due on such day and shall become delinquent on the first day of the  
5 following month.

6 (4) Subsections (1) through (3) of this section do not  
7 apply to dealer's license plates, repossession plates, and  
8 transporter plates as provided in section 60-320, which plates  
9 shall be issued for a calendar year. The registration period for  
10 vehicles licensed as apportioned vehicles as provided in section  
11 60-356 shall expire December 31 of each year and shall become  
12 delinquent February 1 of the following year.

13 (5) Any owner who has two or more vehicles required to be  
14 registered under Chapter 60, article 3, may register all such  
15 vehicles on a calendar-year basis or on an annual basis for the  
16 same registration period beginning in a month chosen by the owner.  
17 When electing to establish the same registration period for all  
18 such vehicles, the owner shall pay the registration fee, the motor  
19 vehicle tax imposed in section 60-3002, and the motor vehicle fee  
20 imposed in section 60-3007 on each vehicle for the number of months  
21 necessary to extend its current registration period to the  
22 registration period under which all such vehicles will be  
23 registered. Credit shall be given for registration paid on each  
24 vehicle when the vehicle has a later expiration date than that  
25 chosen by the owner except as otherwise provided in sections  
26 60-311.23 and 60-315.01 and section 2 of this act. Thereafter all  
27 such vehicles shall be registered on an annual basis starting in  
1 the month chosen by the owner.

2 Sec. 4. Section 60-315, Revised Statutes Supplement,

3 2002, is amended to read:

4 60-315. (1) Except as otherwise provided in sections  
5 60-311.23 and 60-315.01 and section 2 of this act, (a) upon  
6 transfer of ownership of any motor vehicle or cabin trailer as  
7 defined in section 60-301, (b) in case of loss of possession  
8 because of fire, theft, dismantlement, or junking, (c) when a  
9 salvage branded certificate of title is issued, (d) whenever a type  
10 or class of motor vehicle previously registered is subsequently  
11 declared by legislative act or court decision to be illegal or  
12 ineligible to be operated on the public roads and no longer subject  
13 to registration fees, the motor vehicle tax imposed in section  
14 60-3002, and the motor vehicle fee imposed in section 60-3007, or  
15 (e) in case of a change in the situs of a motor vehicle as defined  
16 in section 60-3001 to a location outside of this state, the  
17 registration shall expire and the registered owner may, by  
18 returning the registration certificate, the number plates, and,  
19 when appropriate, the renewal tabs and by either making affidavit  
20 to the county treasurer or designated county official as provided  
21 in section 60-302 of the occurrence of an event described in  
22 subdivisions (a) through (d) of this subsection or, in the case of  
23 a change in situs, displaying to the county treasurer or designated  
24 county official the registration certificate of such other state as  
25 evidence of a change in situs, receive a refund of that part of the  
26 unused fees on passenger vehicles, trucks, and cabin trailers based  
27 on the number of unexpired months remaining in the registration  
1 period from the date of the event, except that when such date falls  
2 within the same calendar month in which the vehicle or trailer is  
3 acquired, no refund shall be allowed for such month. The  
4 registered owner shall make a claim for credit or refund of the  
5 unused fees within sixty days after the date of the event or shall  
6 be deemed to have forfeited his or her right to such refund. For  
7 purposes of this subsection, the date of the event shall be, in the  
8 case of a transfer or loss, the date of the transfer or loss, in  
9 the case of a change in the situs, the date of registration in  
10 another state, in the case of a legislative act, the effective date  
11 of the act, and in the case of a court decision, the date the  
12 decision is rendered. Application for registration or for  
13 reassignment of number plates and, when appropriate, renewal tabs  
14 to another motor vehicle or cabin trailer shall be made within  
15 thirty days of the date of purchase.

16 (2) Whenever the registered owner files an application  
17 with the county treasurer or designated county official showing  
18 that a motor vehicle is disabled and has been removed from service,  
19 the registered owner may, by returning the registration  
20 certificate, the number plates, and, when appropriate, the renewal  
21 tabs or, in the case of the unavailability of such certificate or  
22 certificates, number plates, or tabs, then by making an affidavit  
23 to the county treasurer or designated county official of such  
24 disablement and removal from service, receive a credit for a

25 portion of the registration fee from the fee deposited with the  
26 State Treasurer at the time of registration based upon the number  
27 of unexpired months remaining in the registration year except as  
1 otherwise provided in sections 60-311.23 and 60-315.01 and section  
2 2 of this act. The owner shall also receive a credit for the  
3 unused portion of the motor vehicle tax and fee based upon the  
4 number of unexpired months remaining in the registration year.  
5 When the owner registers a replacement vehicle at the time of  
6 filing such affidavit, the credit may be immediately applied  
7 against the registration fee and the motor vehicle tax and fee for  
8 the replacement vehicle. When no such replacement vehicle is so  
9 registered, the county treasurer or designated county official  
10 shall forward the application and affidavit, if any, to the State  
11 Treasurer who shall determine the amount, if any, of the allowable  
12 credit for the registration fee and furnish a certificate therefor  
13 to the owner. For the motor vehicle tax and fee, the county  
14 treasurer shall determine the amount, if any, of the allowable  
15 credit and furnish a certificate to the owner. When such motor  
16 vehicle is removed from service within the same month in which it  
17 was registered, no credits shall be allowed for such month. The  
18 credits may be applied against taxes and fees for new or  
19 replacement vehicles incurred within one year after cancellation of  
20 registration of the motor vehicle for which the credits were  
21 allowed. When any such vehicle is reregistered within the same  
22 registration year in which its registration has been canceled, the  
23 taxes and fees shall be that portion of the registration fee and  
24 the motor vehicle tax and fee for the remainder of the registration  
25 year.

26 (3) If a vehicle has a salvage branded certificate of  
27 title issued as a result of an insurance company acquiring the  
1 vehicle through a total loss settlement, the prior owner of the  
2 vehicle who is a party to the settlement may receive a credit or  
3 refund of unused fees and taxes by (a) filing an application with  
4 the county treasurer or designated county official within thirty  
5 days after the date of the settlement stating that title to the  
6 vehicle was transferred as a result of the settlement and (b)  
7 returning the registration certificate, the license plates, and,  
8 when appropriate, the renewal tabs or, in the case of the  
9 unavailability of the certificate, plates, or tabs, filing an  
10 affidavit with the county treasurer or designated county official  
11 regarding the transfer of title due to the settlement and the  
12 unavailability of the certificate, plates, or tabs. The owner may  
13 receive a refund or credit of the registration fees for the  
14 unexpired months remaining in the registration year determined  
15 based on the date when the vehicle was damaged and became  
16 unavailable for service. The owner may receive a credit for motor  
17 vehicle taxes and fees for the unexpired months remaining in the  
18 registration year determined based on the date when the vehicle was  
19 damaged and became unavailable for service. If the vehicle was

20 damaged and became unavailable for service during the same month in  
21 which it was registered, no refund or credit shall be allowed for  
22 such month. When the owner registers a replacement vehicle at the  
23 time of filing such affidavit, the credit may be immediately  
24 applied against the registration fee and the motor vehicle tax and  
25 fee for the replacement vehicle. When no such replacement vehicle  
26 is so registered, the county treasurer or designated county  
27 official shall refund the unused registration fees or forward the  
1 application and affidavit, if any, to the State Treasurer who shall  
2 determine the amount, if any, of the allowable credit for the  
3 registration fee and furnish a certificate therefor to the owner.  
4 For the motor vehicle tax and fee, the county treasurer or  
5 designated county official shall determine the amount, if any, of  
6 the allowable credit and furnish a certificate to the owner. The  
7 credits may be applied against taxes and fees for new or  
8 replacement vehicles incurred within one year after the date of the  
9 settlement.

10 Sec. 5. The Shriners Travel and Lodging Assistance Fund  
11 is created. The fund shall include money credited to the fund  
12 pursuant to section 2 of this act received by the Shriners for the  
13 purpose of providing traveling and lodging assistance to patients  
14 and their parents. Funds received pursuant to section 2 of this  
15 act shall not be used for administrative or fundraising costs. The  
16 Potestate of the Sesostri Shrine shall administer the fund  
17 throughout the state for the purpose of providing traveling and  
18 lodging assistance to patients and their parents.

19 Sec. 6. This act becomes operative on July 1, 2005.

20 Sec. 7. Original section 60-315, Revised Statutes  
21 Supplement, 2002, and section 60-310, Revised Statutes Supplement,  
22 2003, are repealed.".

(Signed) Tom Baker, Chairperson

### **AMENDMENTS - Print in Journal**

Senator Byars filed the following amendment to LB 1198:  
AM2660

1 1. Strike original section 1 and insert the following  
2 new section:  
3 "Section 1. Section 71-409, Reissue Revised Statutes of  
4 Nebraska, is amended to read:  
5 71-409. Critical access hospital means a facility (1)  
6 with ~~up to fifteen~~ acute care inpatient beds where care or  
7 treatment is provided on an outpatient basis or on an inpatient  
8 basis to persons for an average period of not more than ninety-six  
9 hours and emergency services are provided on a twenty-four-hour  
10 basis and (2) which has formal agreements with at least one  
11 hospital and other appropriate providers for services such as  
12 patient referral and transfer, communications systems, provision of

13 emergency and nonemergency transportation, and backup medical and  
14 emergency services. A facility licensed as a critical access  
15 hospital as of January 1, 2004, shall have no more than twenty-five  
16 acute care inpatient beds, and any other facility licensed as a  
17 critical access hospital shall have no more than fifteen acute care  
18 inpatient beds.".

Senator Vrtiska filed the following amendment to LB 963:  
AM2717

(Amendments to E & R amendments, AM7174)

- 1 1. Strike sections 1 and 2.
- 2 2. On page 10, strike beginning with "and" in line 9
- 3 through the second comma in line 10.
- 4 3. Renumber the remaining sections accordingly.

### **STANDING COMMITTEE REPORTS**

#### **General Affairs**

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

State Electrical Board  
William King  
George Morrissey  
Tom Ourada

VOTE: Aye: Senators Connealy, Cunningham, Erdman, Friend, Janssen, Mossey, and Schimek. Nay: None. Absent: Senator Landis.

The General Affairs Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Nebraska Advisory Commission on Compulsive Gambling  
John Atherton  
Thomas Nutt

VOTE: Aye: Senators Connealy, Cunningham, Erdman, Friend, Janssen, Mossey, and Schimek. Nay: None. Absent: Senator Landis.

(Signed) Ray Janssen, Chairperson

### **SELECT COMMITTEE REPORT**

#### **Enrollment and Review**

**LEGISLATIVE BILL 963.** Placed on Select File as amended.

E & R amendment to LB 963:

AM7174

1 1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:  
3 "Section 1. Section 55-101, Revised Statutes Supplement,  
4 2003, is amended to read:  
5 55-101. Sections 55-101 to 55-181 and section 2 of this  
6 act shall be known and may be cited as the Military Code.  
7 Sec. 2. The sections of the federal Servicemembers Civil  
8 Relief Act, Public Law 108-189, listed in this section or any other  
9 sections referred to by such sections in existence and effective as  
10 of January 1, 2004, are adopted as Nebraska law and are applicable  
11 to all persons in military service as defined in Public Law  
12 108-189, Title I, Sec. 101. The Legislature hereby adopts the  
13 following sections:  
14 (1) Section 1. Short title; table of contents;  
15 (2) Sec. 2. Purpose. Sec. 2 shall be construed to apply  
16 to the defense, peace, and security of the State of Nebraska and  
17 includes servicemembers of the Nebraska National Guard while  
18 serving on state active duty;  
19 (3) Title I - General Provisions;  
20 (a) Sec. 101. Definitions. Sec. 101(1) Servicemember  
21 includes uniformed members of the Nebraska National Guard  
22 performing state active duty for periods of more than thirty  
23 consecutive days. Sec. 101(2) Military service includes state  
24 active duty under the Nebraska Military Code. Sec. 101(7)  
1 Secretary concerned includes the Adjutant General with respect to  
2 members of the Nebraska National Guard;  
3 (b) Sec. 102. Jurisdiction and Applicability of Act.  
4 The jurisdiction and applicability of act is limited to the State  
5 of Nebraska unless otherwise extended by law;  
6 (c) Sec. 103. Protection of persons secondarily liable;  
7 (d) Sec. 104. Extension of protections to citizens  
8 serving with allied forces. Sec. 104 includes service within  
9 another state, territory, or the District of Columbia;  
10 (e) Sec. 105. Notification of benefits;  
11 (f) Sec. 106. Extension of rights and protections to  
12 reserves ordered to report for military service and to persons  
13 ordered to report for induction;  
14 (g) Sec. 107. Waiver of rights pursuant to written  
15 agreement;  
16 (h) Sec. 108. Exercise of rights under act not to affect  
17 certain future financial transactions; and  
18 (i) Sec. 109. Legal representatives;  
19 (4) Title II - General Relief;  
20 (a) Sec. 201. Protection of servicemembers against  
21 default judgments. Any person who falsifies an affidavit required  
22 by Sec. 201(b) may be prosecuted for making a false statement under  
23 oath or affirmation under section 28-915.01;

- 24 (b) Sec. 202. Stay of proceedings when servicemember has  
25 notice;
- 26 (c) Sec. 203. Fines and penalties under contracts;
- 27 (d) Sec. 204. Stay or vacation of execution of  
1 judgments, attachments, and garnishments;
- 2 (e) Sec. 205. Duration and terms of stays; codefendants  
3 not in service;
- 4 (f) Sec. 206. Statute of limitations; and
- 5 (g) Sec. 207. Maximum rate of interest on debts incurred  
6 before military service;
- 7 (5) Title III - Rent, Installment Contracts, Mortgages,  
8 Liens, Assignment, Leases;
- 9 (a) Sec. 301. Evictions and distress. For the purposes  
10 of subdivision 301(a)(1)(A), dependents includes any person  
11 providing primary care for the dependents of a servicemember as  
12 defined in Sec. 101(4)(C), during a period of military service of  
13 the servicemember. Any person who knowingly and intentionally  
14 violates Sec. 301 is guilty of a Class I misdemeanor;
- 15 (b) Sec. 302. Protection under installment contracts for  
16 purchase or lease. Any person who knowingly and intentionally  
17 violates Sec. 302 shall be guilty of a Class I misdemeanor;
- 18 (c) Sec. 303. Mortgages and trust deeds. Any person who  
19 knowingly and intentionally violates Sec. 303 is guilty of a Class  
20 I misdemeanor;
- 21 (d) Sec. 304. Settlement of stayed cases relating to  
22 personal property;
- 23 (e) Sec. 305. Termination of residential or motor  
24 vehicle leases. For the purposes of Sec. 305, the definition of  
25 dependents is expanded to include persons who are joint lessees  
26 with a person in military service or sureties or cosigners for the  
27 person in military service. Any person who knowingly and  
1 intentionally violates Sec. 305 is guilty of a Class I misdemeanor;
- 2 (f) Sec. 306. Protection of life insurance policy. Any  
3 person who knowingly and intentionally violates Sec. 306 is guilty  
4 of a Class I misdemeanor;
- 5 (g) Sec. 307. Enforcement of storage liens. Any person  
6 who knowingly and intentionally violates Sec. 307 is guilty of a  
7 Class I misdemeanor; and
- 8 (h) Sec. 308. Extension of protections to dependants;
- 9 (6) Title IV - Life Insurance;
- 10 (a) Sec. 401. Definitions;
- 11 (b) Sec. 402. Insurance rights and protections;
- 12 (c) Sec. 403. Application for insurance protection;
- 13 (d) Sec. 404. Policies entitled to protection and lapse  
14 of policies;
- 15 (e) Sec. 405. Policy restrictions; and
- 16 (f) Sec. 406. Deduction of unpaid premiums;
- 17 (7) Title V - Taxes and Public Lands;
- 18 (a) Sec. 501. Taxes respecting personal property, money,

19 credits, and real property;

20 (b) Sec. 510. Income taxes. Sec. 510 shall be construed

21 to apply to state income taxes; and

22 (c) Sec. 511. Residence for tax purposes. Sec. 511

23 shall be construed to apply to residency in Nebraska for tax

24 purposes;

25 (8) Title VI - Administrative Remedies:

26 (a) Sec. 601. Inappropriate use of act;

27 (b) Sec. 602. Certificates of service; persons reported

1 missing. For the purposes of Sec. 602, Secretary concerned shall

2 be construed to mean the Adjutant General with respect to members

3 of the Nebraska National Guard; and

4 (c) Sec. 603. Interlocutory orders;

5 (9) Title VII - Further Relief:

6 (a) Sec. 701. Anticipatory relief;

7 (b) Sec. 702. Power of attorney. Subdivision

8 702(a)(1)(B) includes powers of attorney executed by a

9 servicemember who has been advised by an official of the Military

10 Department that the servicemember may receive a call or order to

11 report for military service;

12 (c) Sec. 703. Professional liability protection.

13 Subdivision 703(a)(1) shall include a servicemember who is ordered

14 to state active duty in excess of thirty consecutive days under the

15 Military Code or National Guard, 32 U.S.C.;

16 (d) Sec. 704. Health insurance reinstatement. Sec. 704

17 shall include insurance personally purchased by the servicemember

18 or carried by a third party or entity for the benefit of the

19 servicemember without regard to employment. For the purposes of

20 Sec. 704, Secretary of Veterans Affairs is construed to mean the

21 Nebraska National Guard state surgeon. Subsection (c) also applies

22 to section 55-161;

23 (e) Sec. 705. Guarantee of residency for military

24 personnel; and

25 (f) Sec. 706. Business or trade obligations.

26 Sec. 3. Section 55-121, Reissue Revised Statutes of

27 Nebraska, is amended to read:

1 55-121. The Adjutant General shall be appointed by the

2 Governor from the active or retired commissioned officers of the

3 National Guard of this state. Such Adjutant General shall be or

4 have been a commissioned officer ~~of the field or line in active~~

5 ~~service~~ who has actively served in the National Guard of this state

6 for at least ~~seven~~ five years, ~~and~~ shall have attained at least the

7 grade of lieutenant colonel, and shall be able to become eligible

8 for promotion to general officer. If a retired officer is

9 appointed, he or she shall not have been retired for more than two

10 years at the time he or she is considered for appointment. He or

11 she shall hold his or her office as provided in section 55-136. He

12 or she shall receive for his or her services such salary as the

13 Governor shall direct, payable monthly, except ; ~~PROVIDED~~, that

14 such salary shall not exceed the annual pay and allowances of  
 15 regular military officers of equal rank. ~~If ; AND PROVIDED~~  
 16 ~~FURTHER, that when~~ funds made available by the federal government  
 17 are in excess of the amount payable as directed by the Governor,  
 18 the excess shall be used to reduce the amount required to be paid  
 19 by the state. Due to the interrelated nature of the Adjutant  
 20 General's state and federal duties, the Adjutant General shall not  
 21 be required to take paid or unpaid leave or leaves of absence to  
 22 perform his or her federal duties, whether or not under federal  
 23 orders. The Adjutant General shall continue to receive his or her  
 24 salary during all such periods. The Adjutant General shall only be  
 25 required to take leave or leaves of absence during those times when  
 26 he or she is absent and performing neither his or her state nor  
 27 federal duties as Adjutant General. This section shall not apply  
 1 if the Adjutant General is called to active duty of the United  
 2 States under 10 U.S.C.

3 Sec. 4. Section 55-125, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 55-125. The Adjutant General ~~shall have~~ may appoint a  
 6 deputy adjutant general, ~~a~~ or chief of staff of the Military  
 7 Department, ~~in a~~ or a deputy director. The officer shall hold the  
 8 grade of not less than colonel; as provided in section 55-120; ~~;~~  
 9 ~~who shall be appointed by the Adjutant General.~~ No person shall be  
 10 eligible for such appointment and service unless he or she is an  
 11 active member of the Nebraska National Guard. He or she shall have  
 12 had at least four years of commissioned service in the Nebraska  
 13 National Guard immediately prior to appointment and shall have  
 14 attained at least the grade of lieutenant colonel prior to his or  
 15 her appointment as deputy adjutant general, ~~or~~ chief of staff of  
 16 the Military Department, or deputy director. The Adjutant General  
 17 shall appoint an officer with a grade of not less than major who  
 18 may act as United States property and fiscal officer. The Adjutant  
 19 General may also appoint ; an assistant United States property and  
 20 fiscal officer; with the grade of not less than captain. These ;  
 21 ~~which~~ officers shall be appointed from among the active officers of  
 22 the Nebraska National Guard and shall have been commissioned  
 23 officers in the Nebraska National Guard for a period of at least  
 24 four years and shall have attained the grade of at least captain  
 25 and first lieutenant, respectively immediately prior to  
 26 appointment. The Adjutant General shall appoint all additional  
 27 officers, clerks, and caretakers as may be required.

1 Sec. 5. Section 55-126, Reissue Revised Statutes of  
 2 Nebraska, is amended to read:

3 55-126. The deputy adjutant general, chief of staff of  
 4 the Military Department, or deputy director shall aid the Adjutant  
 5 General by the performance of such duties as may be assigned by the  
 6 Adjutant General. In case of absence or inability of the Adjutant  
 7 General, the deputy adjutant general, chief of staff of the  
 8 Military Department, or deputy director shall perform all or such

9 portion of the duties of the Adjutant General as the latter may  
 10 expressly delegate to him or her. If a deputy adjutant general,  
 11 chief of staff of the Military Department, or deputy director has  
 12 not been appointed, the Adjutant General may delegate the authority  
 13 to perform the duties of the Adjutant General to any active officer  
 14 of the Nebraska military who shall hold at least the rank of  
 15 colonel. The deputy adjutant general, chief of staff of the  
 16 Military Department, or deputy director shall be bonded under the  
 17 blanket surety bond required by section 11-201. The deputy  
 18 adjutant general, chief of staff of the Military Department, or  
 19 deputy director shall receive such salary as the Adjutant General  
 20 shall direct, payable monthly. Such salary shall not exceed the  
 21 annual pay and allowances of regular military officers of equal  
 22 rank, except that when funds made available by the federal  
 23 government are in excess of the amount payable as directed by the  
 24 Adjutant General, the excess shall be used to reduce the amount  
 25 required to be paid by the State of Nebraska.

26 Sec. 6. Section 55-157, Reissue Revised Statutes of  
 27 Nebraska, is amended to read:

1 55-157. (1) When an active or retired officer or  
 2 enlisted person of the National Guard is ordered to active service  
 3 of the state by the Governor or Adjutant General, he or she shall  
 4 receive compensation as provided in this ~~section~~ subsection. For  
 5 service during a disaster or emergency an officer or enlisted  
 6 person shall be entitled to the same pay, subsistence, and quarters  
 7 allowance as officers and enlisted personnel of corresponding  
 8 grades of the Army and Air Force of the United States. For advice,  
 9 counsel, duties, or service to the Governor or Adjutant General, an  
 10 officer or enlisted person may, at the discretion of the Adjutant  
 11 General, be in a pay or nonpay status. If in a pay status, the  
 12 officer or enlisted person shall be entitled to the same pay,  
 13 subsistence, and quarters allowance as officers and enlisted  
 14 personnel of corresponding grades of the Army and Air Force of the  
 15 United States.

16 (2) For any period of active service of the state in  
 17 excess of thirty consecutive days, performed at the order of the  
 18 Governor or Adjutant General or at the request of the federal  
 19 government, a state, or other agency or entity, an officer or  
 20 enlisted person shall be entitled to reimbursement of one hundred  
 21 percent of the cost of his or her privately purchased health  
 22 insurance or up to one hundred two percent of the cost of his or  
 23 her employer-provided health insurance. The officer or enlisted  
 24 person shall provide evidence of payment and shall be reimbursed to  
 25 the extent that evidence of payment can be provided. The  
 26 reimbursement for health insurance shall be treated as an allowance  
 27 but may be paid separately once received by the State of Nebraska  
 1 from the federal government, a state, or other agency or entity  
 2 requesting the services of the officer or enlisted person. The  
 3 State of Nebraska will not pay or advance the cost of such health

4 insurance reimbursement for the federal government, a state, or  
 5 other agency or entity. The State of Nebraska is exempt from the  
 6 requirement under this subsection to reimburse officers and  
 7 enlisted persons for their health insurance costs.

8 Sec. 7. Original sections 55-121, 55-125, 55-126, and  
 9 55-157, Reissue Revised Statutes of Nebraska, and section 55-101,  
 10 Revised Statutes Supplement, 2003, are repealed."

11 2. On page 1, strike beginning with "military" in line 1  
 12 through line 4 and insert "Military Code; to amend sections 55-121,  
 13 55-125, 55-126, and 55-157, Reissue Revised Statutes of Nebraska,  
 14 and section 55-101, Revised Statutes Supplement, 2003; to adopt  
 15 portions of the federal Servicemembers Civil Relief Act; to provide  
 16 and change powers and duties of the Adjutant General; to provide  
 17 for health insurance reimbursement as prescribed; to harmonize  
 18 provisions; and to repeal the original sections."

(Signed) Ray Mossey, Chairperson

### SELECT FILE

**LEGISLATIVE RESOLUTION 14CA.** Senator Smith renewed his pending amendment, AM2670, found on page 659.

Pending.

**LEGISLATIVE BILL 906.** E & R amendment, AM7173, found on page 591, was adopted.

Senator Beutler withdrew his pending amendment, AM2500, found on page 573.

Senators Jensen and Stuhr offered the following amendment:  
 AM2748

(Amendments to Standing Committee amendments, AM2249)

- 1 1. On page 15, line 1, strike "board" and insert  
 2 "department".
- 3 2. On page 16, line 13, after "date" insert ", and may  
 4 be licensed by the department"; strike beginning with "as" in line  
 5 14 through the second "of" in line 15 and insert "of training and";  
 6 in line 21 after the second comma insert "and"; and strike  
 7 beginning with the comma in line 23 through "apprentice" in line  
 8 25.
- 9 3. On page 17, line 6, after the period insert  
 10 paragraphing and "(3)"; in line 13 strike "permission" and insert  
 11 "approval"; in line 20 strike "in" and insert "at" and after "than"  
 12 insert "at"; and in line 21 strike "specifically permitted" and  
 13 insert "otherwise specifically provided".
- 14 4. On page 18, line 2, strike "facility for such  
 15 business" and insert "body art facility"; in line 4 after "date"  
 16 insert ", and may be licensed by the department,"; strike lines 5  
 17 and 6 and insert "within such ninety-day period and the facility

- 18 receives a satisfactory rating by the department upon inspection of  
 19 the facility."; in line 18 strike "its" and insert "a"; and in line  
 20 19 strike "each" and insert "a".  
 21 5. On page 19, line 18, after "art" insert "at such  
 22 facility"; in line 19 after "the" insert "facility's"; in line 25  
 23 strike "all other" and insert "such"; and in line 27 strike  
 1 "attained" and insert "received".  
 2 6. On page 20, line 1, strike "able to meet such  
 3 requirement" and insert "receiving such rating"; and in line 18  
 4 strike "in" and insert "at".  
 5 7. On page 31, line 9, strike "33 and 36" and insert  
 6 "26, 33, 36, and 52"; and in line 13 strike "71-386,".  
 7 8. Insert the following new section:  
 8 "Sec. 52. Original section 71-386, Reissue Revised  
 9 Statutes of Nebraska, is repealed."

Senator Chambers requested a division of the question on the Jensen-Stuhr amendment.

The Chair sustained the division of the question.

The first Jensen-Stuhr amendment is as follows:

FA1472

(Amendments to Standing Committee amendments, AM2249)

- 1 1. On page 15, line 1, strike "board" and insert
- 2 "department".

## **SPEAKER BROMM PRESIDING**

The first Jensen-Stuhr amendment was adopted with 26 ayes, 0 nays, 18 present and not voting, and 5 excused and not voting.

The second Jensen-Stuhr amendment is as follows:

FA1473

(Amendments to Standing Committee amendments, AM2249)

- 3 2. On page 16, line 13, after "date" insert ", and may  
 4 be licensed by the department"; strike beginning with "as" in line  
 5 14 through the second "of" in line 15 and insert "of training and";  
 6 in line 21 after the second comma insert "and"; and strike  
 7 beginning with the comma in line 23 through "apprentice" in line  
 8 25.

## **SENATOR CUDABACK PRESIDING**

The second Jensen-Stuhr amendment was adopted with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

Pending.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 838A.** Introduced by Louden, 49.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 838, Ninety-eighth Legislature, Second Session, 2004.

**STANDING COMMITTEE REPORTS****Judiciary**

**LEGISLATIVE BILL 926.** Placed on General File.

**LEGISLATIVE BILL 1035.** Placed on General File.

**LEGISLATIVE BILL 1210.** Placed on General File.

**LEGISLATIVE BILL 817.** Placed on General File as amended.

Standing Committee amendment to LB 817:

AM2668

- 1 1. Strike original section 2 and insert the following
- 2 new sections:
- 3 "Sec. 2. Section 28-322.01, Revised Statutes Supplement,
- 4 2002, is amended to read:
- 5 28-322.01. A person commits the offense of sexual abuse
- 6 of an inmate or parolee if such person subjects an ~~individual who~~
- 7 ~~is confined in a correctional institution or a city or county~~
- 8 ~~correctional or jail facility or under parole supervision~~ inmate or
- 9 parolee to sexual penetration or sexual contact as those terms are
- 10 defined in section 28-318. It is not a defense to a charge under
- 11 this section that the inmate or parolee consented to such sexual
- 12 penetration or sexual contact.
- 13 Sec. 3. Original sections 28-322 and 28-322.01, Revised
- 14 Statutes Supplement, 2002, are repealed."
- 15 2. On page 2, lines 3 and 4, strike ", person", show as
- 16 stricken, and insert ":
- 17 (1) Inmate or parolee means any individual confined in a
- 18 facility operated by the Department of Correctional Services or a
- 19 city or county correctional or jail facility or under parole
- 20 supervision; and
- 21 (2) Person"; in line 4 strike "(1)", show as stricken,
- 22 and insert "(a)"; in line 11 strike "(2)", show as stricken, and
- 23 insert "(b)"; in line 19 strike "(3)" and insert "(c)"; and in line
- 24 22 after "Services" insert "or a city or county correctional or
- 1 jail facility".

**LEGISLATIVE BILL 998.** Placed on General File as amended.

Standing Committee amendment to LB 998:

AM2697

- 1 1. Insert the following new sections:
- 2 "Sec. 5. Any health care provider who has furnished
- 3 proof of financial responsibility prior to the operative date of
- 4 this act under sections 44-2824 and 44-2827 shall be qualified
- 5 under section 44-2824 for the remainder of the policy year or
- 6 risk-loss trust year. The increases in coverage requirements made
- 7 by this legislative bill in sections 44-2824 and 44-2827 shall
- 8 apply to policies issued or renewed and risk-loss trust years which
- 9 commence after the operative date of this act.
- 10 Sec. 6. Section 44-2855, Reissue Revised Statutes of
- 11 Nebraska, is amended to read:
- 12 44-2855. Sections 44-2801 to 44-2855 and section 5 of
- 13 this act shall be known and may be cited as the Nebraska
- 14 Hospital-Medical Liability Act.
- 15 Sec. 7. This act becomes operative on January 1, 2005".
- 16 2. On page 8, line 4, strike "section 44-2824" and
- 17 insert "sections 44-2824 and 44-2855".
- 18 3. Renumber the remaining sections accordingly.

**LEGISLATIVE BILL 1068.** Placed on General File as amended.  
Standing Committee amendment to LB 1068:  
AM2667

- 1 1. On page 4, lines 5 and 6, strike the new matter.
- 2 2. On page 5, after line 9, insert the following new
- 3 subsection:
- 4 "(9) Notwithstanding subsection (6) of this section, the
- 5 Supreme Court or an agent of the Supreme Court acting under the
- 6 direction and supervision of the Chief Justice shall have access to
- 7 psychiatric examinations and presentence investigations and reports
- 8 for research purposes. The Supreme Court and its agent shall treat
- 9 such information as confidential and nothing identifying any
- 10 individual shall be released.".

**LEGISLATIVE BILL 1112.** Placed on General File as amended.  
Standing Committee amendment to LB 1112:  
AM2616

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Any county treasurer, county official, or
- 4 political subdivision official may charge a fee not to exceed
- 5 thirty dollars for a check which is dishonored after being properly
- 6 presented. Such fee shall be remitted to the county treasurer for
- 7 credit to the county general fund.
- 8 Sec. 2. Any state official or state agency may charge a
- 9 fee not to exceed thirty dollars for a check which is dishonored
- 10 after being properly presented. Such fee shall be remitted to the
- 11 State Treasurer for credit to the General Fund."

(Signed) Kermit A. Brashear, Chairperson

### Revenue

**LEGISLATIVE BILL 1065.** Placed on General File as amended.  
(Standing Committee amendment, AM2644, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 1094.** Placed on General File as amended.  
Standing Committee amendment to LB 1094:  
AM2732

1 1. On page 4, strike the new matter in lines 12 through  
2 28 and insert "(a) Every payor who is maintaining an office or  
3 transacting business within this state and making a payment or  
4 payments related to such business in excess of six hundred dollars,  
5 and such payment or payments are for construction services  
6 performed or to be performed substantially within this state, to an  
7 individual, other than an employee, who is not subject to  
8 withholding on such payment under the Internal Revenue Code of  
9 1986, as amended, or to any person who is providing or arranging  
10 for labor for construction services, either as employees or as  
11 independent contractors, shall deduct and withhold five percent of  
12 such payments. If the individual performing the services provides  
13 the payor with the total amount of expenses reasonably related to  
14 the services, the total payment or payments may be reduced by the  
15 total expenses before computing the amount to deduct and withhold.  
16 Such reduction shall not be more than fifty percent of such payment  
17 or payments, except that when one-half or more of the payment is  
18 for materials or the use of equipment provided to the payor, such  
19 reduction shall not be more than seventy-five percent of such  
20 payment or payments.

21 (b) The withholding required by this subsection shall not  
22 apply to any payment made to a person that provides the payor with  
23 a statement that the income earned is not subject to tax because of  
24 a treaty obligation of the United States.

1 (c) For purposes of this subsection, construction  
2 services means services that are provided by a contractor as  
3 defined in section 77-3101."

4 2. On page 5, strike lines 1 through 14.

5 3. On page 7, line 3, strike "person" and insert  
6 "subcontractor".

7 4. On page 10, line 7, after "Any" insert "resident or  
8 nonresident" and after "with" insert "(1)"; and in line 9 after the  
9 comma insert "(2) any individual who is not an employee and who is  
10 not subject to withholding on such payment under the Internal  
11 Revenue Code of 1986, as amended, or (3) any person who is  
12 providing or arranging for labor for construction services, either  
13 as an employee or as an independent contractor."

**LEGISLATIVE BILL 1181.** Placed on General File as amended.

Standing Committee amendment to LB 1181:

AM2747

- 1 1. On page 2, lines 6, 15, 22, and 28 strike "four" and
- 2 insert "three".

**LEGISLATIVE BILL 1216.** Placed on General File as amended.

Standing Committee amendment to LB 1216:

AM2688

- 1 1. On page 3, line 15, after the period insert "The
- 2 number of hours assessed to qualifying businesses under this
- 3 section shall not exceed one hundred in any calendar year.".

**LEGISLATIVE BILL 945.** Indefinitely postponed.

**LEGISLATIVE BILL 988.** Indefinitely postponed.

**LEGISLATIVE BILL 1011.** Indefinitely postponed.

**LEGISLATIVE BILL 1015.** Indefinitely postponed.

**LEGISLATIVE BILL 1020.** Indefinitely postponed.

**LEGISLATIVE BILL 1025.** Indefinitely postponed.

**LEGISLATIVE BILL 1040.** Indefinitely postponed.

**LEGISLATIVE BILL 1134.** Indefinitely postponed.

**LEGISLATIVE BILL 1135.** Indefinitely postponed.

**LEGISLATIVE BILL 1142.** Indefinitely postponed.

**LEGISLATIVE BILL 1189.** Indefinitely postponed.

**LEGISLATIVE BILL 1197.** Indefinitely postponed.

**LEGISLATIVE BILL 1211.** Indefinitely postponed.

**LEGISLATIVE BILL 1215.** Indefinitely postponed.

(Signed) David Landis, Chairperson

### **Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 1202.** Placed on General File.

**LEGISLATIVE BILL 1229.** Placed on General File.

**LEGISLATIVE RESOLUTION 221CA.** Placed on General File.

(Signed) DiAnna R. Schimek, Chairperson

### **AMENDMENT - Print in Journal**

Senators Jensen, Byars, and Cunningham filed the following amendment to LB 906:

(Amendment, AM2724, is printed separately and available in the Bill Room, Room 1104.)

### **ANNOUNCEMENTS**

Senator Wehrbein designates LB 297 as his priority bill.

Senator Quandahl designates LB 679 as his priority bill.

The Education Committee designates LB 1106 as its priority bill.

The Executive Board designates LB 470 and LR 211CA as its priority bill and priority resolution.

Senator Bromm designates LB 613 as his priority bill.

The Health and Human Services Committee designates LB 1145 as its priority bill.

### **VISITORS**

Visitors to the Chamber were Senator Schrock's cousin, Daniel Wallenás, from Sweden; Jeff, Josh, Kyle, and Bryan Hohnholt and Garrison Swanson from Polk; Ben Carrel from Beatrice; and 16 fourth-grade students, teacher, and sponsors from Emmanuel Lutheran School, Columbus.

### **ADJOURNMENT**

At 11:57 a.m., on a motion by Senator Vrtiska, the Legislature adjourned until 9:00 a.m., Monday, February 23, 2004.

Patrick J. O'Donnell  
Clerk of the Legislature